

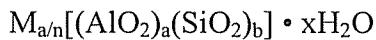
III. REMARKS/ARGUMENTS

A. Status of the Application

Claims 33, 40, 43-47, 49, 53-55, 58, 61, 62, 65, 106, 110, 113-121, 125, 128-132 and 134-138 are now pending. Claims 33, 45-46, 106, 121 and 138 are amended. Claims 1-32, 34-39, 41-42, 48, 50-52, 56-57, 59-60, 63-64, 66-105, 107-109, 111-112, 122-124, 126-127 and 133 have been cancelled. Claim 138 is currently withdrawn from consideration. Reconsideration of this application in light of the following remarks is respectfully requested.

B. Independent Claims

Claim 33 is drawn to a wellbore spacer composition comprising a zeolite, a polymer and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is represented by the formula:



where

M represents one or more cations selected from the group consisting of Na, K, Mg, Ca, Sr, Li, Ba, NH₄, CH₃NH₃, (CH₃)₃NH, (CH₃)₄N, Ga, Ge and P;

n represents the cation valence;

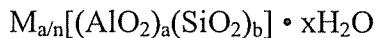
the ratio of b:a is in the range of from greater than or equal to 1 to less than or equal to 5; and

x represents number of moles of water entrained into the zeolite framework.

The polymer is present from about 1 to 3% by weight of dry materials and is selected from hydroxyethylcellulose, cellulose, carboxyethylcellulose, carboxymethylcellulose, carboxymethylhydroxyethylcellulose, hydroxyethylcellulose, hydroxypropylcellulose, methylhydroxypropylcellulose, methylcellulose, ethylcellulose, propylcellulose, ethylcarboxymethylcellulose, methylethylcellulose, hydroxypropylmethylcellulose, starch, guar gum, locust bean gum, tara, konjak, tamarind, karaya gum, welan gum, xanthan gum, galactomannan gums, succinoglycan gums, scleroglucan gums, tragacanth gum, arabic gum, ghatti gum, tamarind gum, carrageenan, carboxymethyl guar, hydroxypropyl guar, carboxymethylhydroxypropyl guar, polyacrylate, polymethacrylate, polyacrylamide, maleic anhydride, methylvinyl ether copolymers, polyvinyl alcohol and polyvinylpyrrolidone.

Each of claims 40, 43-47, 49, 53-55, 58, 61, 62, 65 and 135 depends directly or indirectly from claim 33, and therefore each includes at least the foregoing elements.

Claim 106 is drawn to a wellbore spacer composition comprising a zeolite, a dispersant and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is represented by the formula:



where

M represents one or more cations selected from the group consisting of Na, K, Mg, Ca, Sr, Li, Ba, NH₄, CH₃NH₃, (CH₃)₃NH, (CH₃)₄N, Ga, Ge and P;

n represents the cation valence;

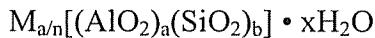
the ratio of b:a is in the range of from greater than or equal to 1 to less than or equal to 5; and

x represents the number of moles of water entrained into the zeolite framework.

The dispersant is present from about 1 to 18% by weight of dry materials and is selected from sodium naphthalene sulfonate condensed with formaldehyde, sulfonated styrene maleic anhydride copolymer, sulfonated vinyltoluene maleic anhydride copolymer, sulfonated acetone condensed with formaldehyde, lignosulfonates and interpolymers of acrylic acid, allyloxybenzene sulfonate, allyl sulfonate and non-ionic monomers.

Each of claims 110, 113-120 and 136 depends directly or indirectly from claim 106, and therefore each includes at least the foregoing elements.

Claim 121 is drawn to a wellbore spacer composition that includes a zeolite, a surfactant and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is represented by the formula:



where

M represents one or more cations selected from the group consisting of Na, K, Mg, Ca, Sr, Li, Ba, NH₄, CH₃NH₃, (CH₃)₃NH, (CH₃)₄N, Ga, Ge and P;

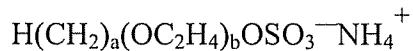
n represents the cation valence;

the ratio of b:a is in the range of from greater than or equal to 1 to less than or equal to 5; and

x represents the number of moles of water entrained into the zeolite framework.

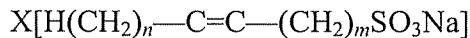
The surfactant is selected from:

(a) an ethoxylated alcohol ether sulfate of the formula:



wherein a is an integer in the range of from about 6 to about 10 and b is an integer in the range of from about 3 to about 10;

(b) a sodium salt of α -olefinic sulfonic acid which is a mixture of compounds of the formulas:



and



wherein:

n and m are individually integers in the range of from about 6 to about 16;

p and q are individually integers in the range of from about 7 to about 17; and

X and Y are fractions with the sum of X and Y being 1;

(c) a composition having the formula:

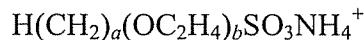


wherein:

a is an integer in the range of from about 6 to about 10;

(d) oxyalkylated sulfonate;

(e) an alcohol ether sulfonate of the formula:



wherein:

a is an integer in the range of from about 6 to about 10; and

b is an integer in the range of from about 3 to about 10;

(f) cocoamine betaine;

(g) an alkyl or alkene amidopropyl betaine having the formula:



wherein R is a radical selected from the group of decyl, cocoyl, lauryl, cetyl and oleyl; and

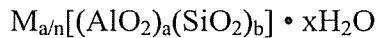
(h) an alkyl or alkene amidopropyl dimethylamine oxide surfactant having the formula:



wherein R is a radical selected from the group of decyl, cocoyl, lauryl, cetyl and oleyl.

Each of claims 125, 128-132, 134 and 137 depends directly or indirectly from claim 121, and therefore each includes at least the foregoing elements.

Claim 138 is drawn to a system for treating a wellbore that includes a first fluid, a second fluid and a wellbore spacer fluid disposed in the wellbore. The second fluid is incompatible with the first fluid and the wellbore spacer fluid is disposed in the wellbore between the first fluid and the second fluid so as to prevent contact between the first fluid and the second fluid. The wellbore spacer fluid comprising a zeolite, a polymer and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is represented by the formula:



where

M represents one or more cations selected from the group consisting of Na, K, Mg, Ca, Sr, Li, Ba, NH₄, CH₃NH₃, (CH₃)₃NH, (CH₃)₄N, Ga, Ge and P;

n represents the cation valence;

the ratio of b:a is in the range of from greater than or equal to 1 to less than or equal to 5; and

x represents number of moles of water entrained into the zeolite framework.

The polymer is present from about 1 to 3% by weight of dry materials and is selected from hydroxyethylcellulose, cellulose, carboxyethylcellulose, carboxymethylcellulose, carboxymethylhydroxyethylcellulose, hydroxyethylcellulose, hydroxypropylcellulose, methylhydroxypropylcellulose, methylcellulose, ethylcellulose, propylcellulose, ethylcarboxymethylcellulose, methylethylcellulose, hydroxypropylmethylcellulose, starch, guar gum, locust bean gum, tara, konjak, tamarind, karaya gum, welan gum, xanthan gum, galactomannan gums, succinoglycan gums, scleroglucan gums, tragacanth gum, arabic gum, ghatti gum, tamarind gum, carrageenan, carboxymethyl guar, hydroxypropyl guar,

carboxymethylhydroxypropyl guar, polyacrylate, polymethacrylate, polyacrylamide, maleic anhydride, methylvinyl ether copolymers, polyvinyl alcohol and polyvinylpyrrolidone.

C. Election/Restrictions

According to the Office Action mailed October 9, 2007, claim 138 has been withdrawn from consideration as being directed to a non-elected invention. The withdrawal from consideration of claim 138 is respectfully traversed.

As noted above, claim 138 is drawn to a system for treating a wellbore that includes a first fluid, a second fluid and a wellbore spacer fluid disposed in the wellbore. Contrary to what is stated in item 8 of the Office Action mailed October 9, 2007:

- Claim 138 is not drawn to a method but is instead drawn to a system that includes three fluids;
- Claim 138 specifies the percentage by weight of the zeolite and polymer components of the wellbore spacer fluid composition recited within the body of claim 138; and
- Claim 138 is supported by the entirety of the present application and specifically is supported by paragraph [0043] of the present application.

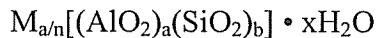
For the foregoing reasons, it is clear that claim 138 has been improperly withdrawn from consideration. Applicants, therefore, respectfully request that claim 138 be reinstated and examined on the merits in this application.

D. Rejection of Claims under 35 U.S.C. § 102(b) over Sirosita et al.

Claims 33, 40-45, 47, 49, 55, 58, 61, 65, 106, 110, 113-116, 120 and 135-136 stand rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,986,989 to Sirosita et al. (“Sirosita ‘989”). As noted above, claims 41-42 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

As provided in MPEP §2131, “[t]o anticipate a claim, the reference must teach every element of the claim ...”. Sirosita ‘989 fails to satisfy the requirements of MPEP §2131 because Sirosita ‘989 does not disclose each and every element of independent claims 33 and 106 or claims 40, 43-45, 47, 49, 55, 58, 61, 65, 110, 113-116, 120 and 135-136 which depend therefrom.

As noted above, the wellbore spacer compositions of claims 33 and 106 include from about 60 to 70% by weight of dry materials of a zeolite represented by the formula:



where

M represents one or more cations selected from the group consisting of Na, K, Mg, Ca, Sr, Li, Ba, NH₄, CH₃NH₃, (CH₃)₃NH, (CH₃)₄N, Ga, Ge and P;

n represents the cation valence;

the ratio of b:a is in the range of from greater than or equal to 1 to less than or equal to 5; and

x represents the number of moles of water entrained into the zeolite framework;

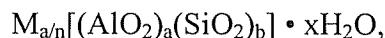
In addition to the zeolite, the wellbore spacer compositions of claims 33 and 106 further include either a polymer or a dispersant present from about 1 to 3% or from about 1 to 18%, respectively, by weight of dry materials.

Sirosita '989 discloses an agricultural and horticultural fungicide that contains a crystalline zeolite selected from the faujasite group, the chabazite group and the phillipsite group, a surfactant, and/or a liquid carrier, such as water (Col. 1, lines 4-16 and Col 3, lines 40-65). The zeolite disclosed by Sirosita '989, however, is a copper-containing zeolite represented by the formula:



wherein M represents a sodium and/or potassium ion, and a, b and c fall in the following ranges: 0 < a ≤ 1, 3 < b ≤ 12, 0 ≤ c ≤ 20 (Col. 1, lines 11-16).

Therefore, Sirosita '989 does not disclose or suggest the wellbore spacer compositions of claims 33 and 106 which include from 60 to 70% by weight of dry materials of a zeolite represented by the formula:



which does not include copper.

In addition, there would be no reason to modify the disclosure of Sirosita '989 to meet all of the requirements of claims 33 and 106. *KSR Int'l. Co. v. Teleflex Inc.*, maintained the long-standing principle that "when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious."

KSR Int'l. Co. v. Teleflex Inc., 127 S. Ct. 1727, 1740. Sirosita '989, by providing only that copper-containing zeolites have fungicidal activity (see Col. 1, line 55 to Col. 2, line 11), clearly teaches away from the zeolite represented by the (copper-free) formula required by claims 33 and 106.

Also, the present invention relates to wellbore spacer compositions for separating a first fluid from a second fluid in a drilling system, while Sirosita '989 is limited to agricultural and horticultural fungicides. *KSR* teaches that when combining elements from different references, it is important to determine whether the element is performing "the same function it had been known to perform." *KSR Int'l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1740. Although one of ordinary skill in the art is presumed to be aware of all prior art in the field to which the invention pertains, he is not presumed to be aware of prior art that is not within his or her technical grasp. Here, Sirosita '989 is clearly non-analogous art because it does not relate to wellbore spacer compositions or drilling systems, and cannot provide a reason, suggestion or motivation to modify the compositions of Sirosita '989 to include a copper-free zeolite to meet the requirements of claims 33 and 106.

Still further, with respect to claim 33, it is noted that specific reference is made in the Office Action mailed May 25, 2007, to Formulation Example 3 of Sirosita '989 which includes carboxymethyl cellulose (CMC). According to Formulation Example 3, the suspension formulation includes 50 parts of the copper-containing zeolite substance, 3 parts of polyoxyethylene sorbitan monooleate, 3 parts of CMC and 44 parts of water. This equates to 5% by weight of dry materials of the CMC. Consequently, there is no disclosure, motivation or suggestion in Sirosita '989 for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and a polymer present from about 1 to 3% by weight of dry materials.

In view of the foregoing, Applicants submit that Sirosita '989 fails to disclose each and every element of claims 33 and 106, and therefore the rejection of claims 33 and 106 under 35 U.S.C. §102(b) should be withdrawn. Applicants further submit that the rejection of claims 40, 43-45, 47, 49, 55, 58, 61, 65, 110-116, 120 and 135-136 under 35 U.S.C. §102(b) should be withdrawn for at least the same reasons that apply to claims 33 and 106.

E. Rejection of Claims under 35 U.S.C. §103(a) over Chaux '734

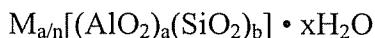
Claims 33, 40-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-137 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,548,734 to Chaux ("Chaux '734). As noted above, claims 41-42 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

To sustain the present rejection of claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-137 under 35 U.S.C. § 103(a) over Chaux '734, a **prima facie** case of obviousness must be established. In *KSR Int'l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739 (2007), the Court stated that "a patent composed of several elements **is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art**. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a **reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does**. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known." *Id.* at 1741 (emphasis added). As the PTO recognizes in MPEP § 2142:

...The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness...

It is submitted that, in the present case, the examiner has not factually supported a **prima facie** case of obviousness for the following reasons.

As noted above, the downhole wellbore spacer compositions of independent claims 33, 106 and 121 include from about 60 to 70% by weight of dry materials of a zeolite represented by the formula:



where

M represents one or more cations selected from the group consisting of Na, K, Mg, Ca, Sr, Li, Ba, NH₄, CH₃NH₃, (CH₃)₃NH, (CH₃)₄N, Ga, Ge and P;

n represents the cation valence;
the ratio of b:a is in the range of from greater than or equal to 1 to less than or equal to 5; and

x represents the number of moles of water entrained into the zeolite framework;

In addition to the zeolite, the wellbore spacer compositions of independent claims 33 and 106 further include either a polymer or a dispersant present from about 1 to 3% or from about 1 to 18%, respectively, by weight of dry materials. Also, in the case of the downhole wellbore spacer composition of independent claim 121, the downhole wellbore spacer composition further includes a surfactant.

Chaux '734 discloses a composition that includes a water soluble gum or polymer, a water donor material and optionally an anionic or nonionic surfactant (column 8, lines 37-44). According to Chaux '734 the water donor material, which can be a zeolite, is impregnated with water and the water-impregnated water donor material is mixed in a dry state with the gum and optionally the anionic or nonionic surfactant (column 11, lines 56-68). Chaux '734 discloses at column 11, lines 37-43 that the compositions can include:

30 to 70% by weight of water soluble gum;
7 to 40% by weight of water donor;
0 to 10% by weight of surfactant; and
15 to 37% by weight of water.

According to Chaux '734, the composition having the highest possible percentage of the water donor, which may be a zeolite, is one that includes 30% by weight of water soluble gum, 40% by weight of water donor, 10% by weight of surfactant (liquid) and 20% by weight of water. In such a composition, the water donor comprises 57% by weight of the dry ingredients. Therefore, contrary to claims 33, 106 and 121, there is no disclosure, motivation or suggestion in Chaux '734 for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials.

Also, according to Chaux '734 the surfactant, if included, may be added as a dry ingredient or as a liquid (col. 10, lines 49-50). Thus, the composition according to Chaux '734 having the lowest possible percentage of the water soluble gum by weight of the dry ingredients is one that includes 30% by weight of water soluble gum, 40% by weight of water donor, 10% by

weight of surfactant (solid) and 20% by weight of water. In such a composition, the water soluble gum comprises 37.5% by weight of the dry ingredients. Therefore, contrary to claim 33, there is no disclosure, motivation or suggestion in Chaux '734 for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and a polymer present from about 1 to 3% by weight of dry materials.

In addition, contrary to claim 106 there is no disclosure, motivation or suggestion in Chaux '734 for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and a dispersant present from about 1 to 18% by weight of dry materials.

Further, there is no reason, suggestion or motivation for the modification of Chaux '734 so as to provide a downhole wellbore spacer composition as recited in any of claims 33, 106 or 121. Neither Chaux '734 nor the current Office Action describes how a person of ordinary skill in the art could be motivated to modify the disclosure of Chaux '734 to provide a downhole wellbore spacer composition as recited in any of claims 33, 106 or 121. Also, there could be no reasonable expectation of success of providing such a downhole wellbore spacer composition from the disclosure of Chaux '734 for at least the reason that there is no suggestion or motivation for modification of the disclosure of Chaux '734. Moreover, a reasonable expectation of success for modifying the formulation as described by Chaux '734 to provide a downhole wellbore spacer composition as recited in any of claims 33, 106 or 121 has not been provided.

In view of the foregoing, Applicants respectfully submit that Chaux '734 fails to disclose each and every element of claims 33, 106 and 121. Therefore, it is respectfully submitted that the Examiner has not met the initial burden of factually supporting the alleged prima facie case of obviousness of independent claims 33, 106 and 121 under 35 U.S.C. §103(a) over Chaux '734. It is further respectfully submitted that the Examiner has similarly not met the initial burden of factually supporting the alleged prima facie case of obviousness of dependent claims 40, 43-47, 49, 53-55, 58, 61-62, 65, 110, 113-120, 125, 128-132 and 134-137 under 35 U.S.C. §103(a) over Chaux '734, for at least the same reasons that apply to claims 33, 106 and 121. For the foregoing reasons, Applicants request that the rejection of claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-137 under 35 U.S.C. §103(a) over Chaux '734 be withdrawn.

F. Obviousness-type Double Patenting Rejection over U.S. Patent No. 7,147,067

Claims 33, 40-47, 49, 53-55, 58, 106, 110-117, 120, 135 and 136 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-43 of U.S. Patent No. 7,147,057 (“the ‘057 patent”). As noted above, claims 41-42 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

As noted above, the downhole wellbore spacer compositions of claims 33, 40, 43-47, 49, 53-55, 58, 106, 110-117, 120 and 135-136 include a zeolite present from about 60 to 70% by weight of dry materials and either a polymer or a dispersant present from about 1 to 3% or from about 1 to 18%, respectively, by weight of dry materials.

Claims 1-43 of the ‘057 patent are directed to methods of performing drilling operations including circulating a drilling fluid composition.

Contrary to claims 33, 40, 43-47, 49, 53-55, 58, 106, 110-117, 120 and 135-136 of this application, there is no disclosure, motivation or suggestion in any of claims 1-43 of the ‘057 patent for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either a polymer or a dispersant present from about 1 to about 3% or from about 1 to 18%, respectively, by weight of dry materials.

There is also no reason, motivation or suggestion in the ‘057 patent for modifying the drilling fluid composition used in the methods recited in claims 1-43 the ‘057 patent to correspond to a downhole wellbore spacer composition as described in claims 33, 40, 43-47, 49, 53-55, 58, 106, 110-117, 120 and 135-136.

In view of the foregoing, Applicants respectfully request that the obviousness-type double patenting rejection of claims 33, 40-47, 49, 53-55, 58, 106, 110-117, 120 and 135-136 over claims 1-43 of the ‘057 patent be withdrawn.

G. Obviousness-type Double Patenting Rejection over U.S. Patent No. 7,285,166 (formerly U.S. Patent Application No. 11/126,626)

Claims 33, 40-44, 49, 53-55 and 135 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of U.S. Patent No. 7,285,166 (the ‘166 patent), formerly U.S. Patent Application No. 11/126,626. As noted

above, claims 41-42 have been cancelled. Insofar as it may be applied against the pending claims, this rejection is respectfully traversed.

As noted above, the downhole wellbore spacer compositions of claims 33, 40, 43-44, 49, 53-55 and 135 include a zeolite present from about 60 to 70% by weight of dry materials and a polymer present from about 1 to about 3% by weight of dry materials.

The claims of the '166 patent are directed to (a) low density foamed cement compositions that include a zeolite foam stability agent; and (b) lightweight cement compositions that include at least one cementitious material and zeolite in which the zeolite has a mean particle size of about 3 to 15 micrometers.

Contrary to claims 33, 40, 43-44, 49, 53-55 and 135 of the present application, there is no disclosure, motivation or suggestion in any of the claims of the '166 patent for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and a polymer present from about 1 to about 3% by weight of dry materials.

There is also no reason, motivation or suggestion in the '166 patent for modifying the cementing composition recited in the claims of the '166 patent to correspond to a downhole wellbore spacer composition as described in claims 33, 40, 43-44, 49, 53-55 and 135.

In view of the foregoing, Applicants respectfully request that the obviousness-type double patenting rejection of claims 33, 40-44, 49, 53-55 and 135 over the claims of the '166 patent be withdrawn.

H. Obviousness-type Double Patenting Rejection over Application No. 11/270,307

Claims 33, 40-46, 53-55, 58, 65, 106, 110-114, 117, 120 and 135-136 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-5, 10-16, 20-26 and 30 of copending Application No. 11/270,307 ("the '307 application"). As noted above, claims 41-42 and 111-112 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

In the event that the Examiner maintains the provisional obviousness-type double patenting rejection in this application, Applicants request that at such time that the provisional obviousness-type double patenting rejection is the only rejection remaining in this application, that the Examiner follow the direction provided in MPEP § 804. MPEP § 804, p. 800-17.

As noted above, the downhole wellbore spacer compositions of claims 33, 40, 43-46, 53-55, 58, 65, 106, 110, 113-114, 117, 120 and 135-136 include a zeolite present from about 60 to 70% by weight of dry materials and either a polymer or a dispersant present from about 1 to 3% or from about 1 to 18%, respectively, by weight of dry materials.

Claims 1, 4-5, 10-16, 20-26 and 30 of the '307 application are directed to methods of performing cementing operations including circulating a drilling fluid composition and mixing a cementitious material with an amount of the drilling fluid to form a cementing composition as well as to cementing compositions that include a cementitious material and a drilling fluid.

Contrary to the subject matter of claims 33, 40, 43-46, 53-55, 58, 65, 106, 110-114, 117, 120 and 135-136 of this application, there is no disclosure, motivation or suggestion in any of claims 1, 4-5, 10-16, 20-26 and 30 of the '307 application for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either a polymer or a dispersant present from about 1 to 3% or from about 1 to 18%, respectively, by weight of dry materials.

There is also no disclosure, motivation or suggestion in the '307 application for modifying the cementing compositions recited in claims 1, 4-5, 10-16, 20-26 and 30 of the '307 application to correspond to a downhole wellbore spacer composition as described in claims 33, 40, 43-46, 53-55, 58, 65, 106, 110, 113-114, 117, 120 and 135-136.

In view of the foregoing, Applicants respectfully request that the provisional obviousness-type double patenting rejection of claims 33, 40-46, 53-55, 58, 65, 106, 110-114, 117, 120 and 135-136 over claims 1, 4-5, 10-16, 20-26 and 30 of the '307 application be withdrawn.

I. Conclusion

Claims 33, 40, 43-47, 49, 53-55, 58, 61, 62, 65, 106, 110, 113-121, 125, 128-132 and 134-138 are now pending. In view of the foregoing remarks, allowance of claims 33, 40, 43-47, 49, 53-55, 58, 61, 62, 65, 106, 110, 113-121, 125, 128-132 and 134-138 is respectfully requested. The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of

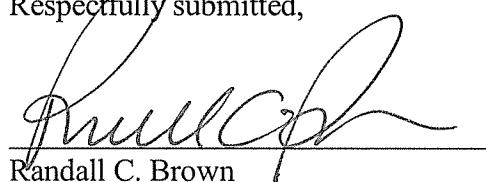
PATENT

Attorney Docket No.: 2000-IP-002115U1P1

Customer No.: 000025587

the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,



Randall C. Brown
Registration No. 31,213

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202 3789
Telephone: 214-651-5242
Facsimile: 214-200-0853
E-Mail: ipdocketing@haynesboone.com